



DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-859]

Steel Concrete Reinforcing Bar from Taiwan: Notice of Court Decision Not in Harmony with the Results of Antidumping Duty Administrative Review; Notice of Amended Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On April 28, 2022, the U.S. Court of International Trade (CIT) issued its final judgment in *Power Steel Co., Ltd. v. United States*, Court no. 20-03771, sustaining the Department of Commerce (Commerce)'s first remand results pertaining to the administrative review of the antidumping duty (AD) order on steel concrete reinforced bar (rebar) from Taiwan covering the period March 7, 2017, through September 30, 2018. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the dumping margin assigned to Power Steel Co., Ltd. (Power Steel).

DATES: Applicable May 8, 2022.

FOR FURTHER INFORMATION CONTACT: Jacob Saude, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0981.

SUPPLEMENTARY INFORMATION:

Background

On October 8, 2020, Commerce published its final results in the 2017-2018 AD administrative review of rebar from Taiwan.¹ In the *Final Results*, Commerce deducted section

¹ See *Steel Concrete Reinforcing Bar from Taiwan: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 63505 (October 8, 2020) (*Final Results*).

232 duties from export price for all of Power Steel’s transactions because Commerce found that the documents Power Steel submitted did not support its claim that section 232 duties were not included in U.S. price for certain transactions.² Commerce calculated a weighted-average dumping margin of 3.27 percent.³

Power Steel appealed Commerce’s *Final Results*. On December 23, 2021, the CIT sustained, in part, and remanded, in part, aspects of the *Final Results*.⁴ The CIT sustained Commerce’s interpretation that section 232 duties are “United States import duties” that are deducted from export price under section 772(c)(2)(A) of the Tariff Act of 1930, as amended (the Act). The CIT remanded Commerce’s determination that Power Steel paid section 232 duties for all its U.S. sales.⁵ The CIT found the evidence Power Steel submitted during the administrative review “appears to be ambiguous if considered in a vacuum” and further found that certain information Power Steel submitted to the CIT, some of which was not previously on Commerce’s record, “may show that Power Steel did not pay the {s}ection 232 duties for the disputed transactions and that therefore they were not part of the sales price used to establish base {export price}.”⁶

In its final remand redetermination, issued on April 8, 2022, Commerce found that the record supported Power Steel’s claim that it did not pay section 232 duties on two of its U.S. sales, and thus, that section 232 duties were not included in the gross unit price that was used as the basis for export price. Commerce recalculated the weighted-average dumping margin for Power Steel, which changed from 3.27 percent in the *Final Results* to 0.01 percent.⁷ Thus,

² *Id.*

³ *Id.*

⁴ See *Power Steel Co., Ltd. v. United States*, Court No. 20-03771, Slip. Op. 21-173 (CIT December 23, 2021).

⁵ *Id.* at 6-7.

⁶ *Id.* at 10-11.

⁷ See Final Results of Remand Redetermination, *Power Steel Co., Ltd. v. United States*, Court No. 20-03771, Slip. Op. 21-173, dated April 8, 2022, (Final Results of Remand Redetermination).

Commerce found that Power Steel did not make sales at less than normal value during the period of review. The CIT sustained Commerce’s final redetermination.⁸

Timken Notice

In its decision in *Timken*,⁹ as clarified by *Diamond Sawblades*,¹⁰ the Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of the Act, Commerce must publish a notice of court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s April 28, 2022, judgment constitutes a final decision of the CIT that is not in harmony with Commerce’s *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Power Steel as follows:

Company	<i>Final Results</i> (percent)	Final Results of Remand Redetermination (percent)
Power Steel Co., Ltd.	3.27	0.01 (<i>de minimis</i>)

Cash Deposit Requirements

Commerce will issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP).

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that: were produced and/or exported by Power Steel, and were entered, or withdrawn from warehouse, for consumption during the period March 7, 2017, through September 30, 2018, excluding the

⁸ See *Power Steel Co., Ltd. v. United States*, Court No. 20-3771, Slip. Op. 22-39 (CIT April 28, 2022).

⁹ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹⁰ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

period September 3, 2017, through September 14, 2017. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise produced and/or exported by Power Steel in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis*.¹¹ Where an import-specific *ad valorem* assessment rate is zero or *de minimis*,¹² we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e), and 777(i)(1) of the Act.

Dated: May 5, 2022.

Lisa W. Wang,
Assistant Secretary
for Enforcement and Compliance.
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¹¹ See 19 CFR 351.106(c)(2).

¹² *Id.*